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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/840,077	04/24/2001	Patrick Michael McCaffrey	ROC920010057US1-IBM 204	2562
7590 06/26/2006			EXAMINER OJINI, EZIAMARA ANTHONY	
Robert H. Berdo, Jr. RABIN & CHAMPAGNE, P.C. Suite 500 1101 14th Street, N.W. Washington, DC 20005			ART UNIT 3723	
DATE MAILED: 06/26/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/840,077

Applicant(s)

MCCAFFREY ET AL.

Examiner

Anthony Ojini

Art Unit

3723

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 March 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,4-9,21,23-28 and 30-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,4-9,21,23-28,30-35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 9, 21,23 are rejected under 35 U.S.C. 102(b) as being anticipated by **McCurdy et al.** (5,725,956).

With respect to claims 1, 9, 21, McCurdy et al. disclose a plurality of glass plates stacked upon each other, and a powder disposed between each glass for protection measure, packaging, shipping and storage (see col. 3, lines 30-48).

McCurdy et al. also disclose the first glass plate is spaced apart from the second glass plate by powder only that has a grain size larger than a micron (see col. 3, lines 44- 49).

With respect to claim 23, McCurdy et al. disclose a fine, loose particles powder that spaces the first glass plate and from the second glass plate (see col. 3, lines 38-39).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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Claims 4-7,24-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over **McCurdy et al.** in view of Foster et al. (5,073,181).

With respect to claims 4-7 and 24-27, **McCurdy et al.** fail to disclose a mineral powder comprising an inorganic material that is selected from the group consisting of calcium carbonate, calcium magnesium carbonate, calcium phosphate, magnesium carbonate, magnesium borate, magnesium oxide, magnesium phosphate, and clay.

Foster et al. disclose in column 1, line 17, column 4, line 5, a mineral powder comprising an inorganic material that is selected from various salts that would include the group consisting of calcium carbonate, magnesium carbonate.

It would have been obvious to one having ordinary skill in the art at the time the invention was made provide **McCurdy et al.**'s a mineral powder with an inorganic material that is selected from various salts that would include the group consisting of calcium carbonate, magnesium carbonate in view of Foster et al. so as to avoid sticking the glasses and prevent scratching the surface of the glasses..

Claims 8, 28, 30-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over **McCurdy et al.** in view of **Hay, Jr.** (3,723,312).

With respect to claims 8, 28, 30-35, **McCurdy et al.** fail to wherein the powder has about a grain size greater than about 150 mesh and less than 300 mesh.

Hay, Jr. discloses spherical particles that have about a grain size greater than about 150 mesh and less than 300 mesh (see abstract).

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It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide **McCurdy et al's** a mineral powder with a grain size greater than about 150 mesh and less than 300 mesh in view of Hay, Jr. so as to prevent surface of the glass from scratching.

Response to Amendment

Applicant's arguments with respect to claims 1,4-9,21, 23-28 has been considered but is moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

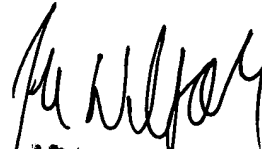
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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anthony Ojini whose telephone number is 571 272 4492. The examiner can normally be reached on 7 to 4 Tuesday-Friday with every other Monday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Hail can be reached on 571 272 4485. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

AO
6/13/06


LEE D. WILSON
PRIMARY EXAMINER